



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JMK:ALC
F. #2016R00505

*271 Cadman Plaza East
Brooklyn, New York 11201*

May 10, 2017

BY HAND DELIVERY AND ECF

The Honorable Dora L. Irizarry
Chief United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Mark Nordlicht, et al.
Criminal Docket No. 16-640 (DLI)

Dear Chief Judge Irizarry:

The government respectfully submits this letter to respond to the submission filed on April 28, 2017 by the defendant Mark Nordlicht in the above-captioned matter. See ECF No. 125 (the "April 28 Letter" or "Ltr."). In the April 28 Letter, Nordlicht requested that the Court enter an order pursuant to Federal Rule of Criminal Procedure 6(e)(3)(E)(i) directing the government to provide to the defendants "an unredacted version of the government's brief and declaration," i.e., the Government's Memorandum of Law in Opposition to Certain Defendants' Motion Alleging Disclosure to the Press in Violation of Fed. R. Crim. P. 6(e), dated April 26, 2017, ECF No. 122 (the "Government's Memorandum"), and Exhibit A to the Government's Memorandum, ECF No. 122-1 (the "Declaration"). See id. at 1-2.

With respect to the government's letter supplementing its April 26, 2017 submission, filed ex parte and in camera on April 26, 2017, see ECF No. 123 (the "Ex Parte Letter"), Nordlicht argued that such letter should also be provided to the defendants. See Ltr. at 2.

The government does not object to Nordlicht's request that unredacted copies of the Government's Memorandum and the Declaration be provided to the defendants through their counsel, on the condition that the defendants and their counsel be prohibited from disseminating or disclosing such unredacted materials to any other person. See Ltr. at 2 ("Mr. Nordlicht has no objection to the government maintaining redacted versions on the public docket and would, of course, maintain the confidentiality of such unredacted versions."). The government respectfully requests, before any such production by the government is made, that the Court first

enter the proposed disclosure order pursuant to Rule 6(e)(3)(E)(i) that is attached hereto as Exhibit A.

The government respectfully submits that the Ex Parte Letter should remain filed ex parte and in camera and that the defendants should not be provided with a copy of that letter. As the government noted in the Ex Parte Letter, that letter discussed details relating to an ongoing investigation and disclosed sensitive, related information about a third party. See, e.g., United States v. Amodeo, 44 F.3d 141, 147 (2d Cir. 1995) (need to protect the integrity of an ongoing investigation may be compelling reason justifying sealing); United States v. Amodeo, 71 F.3d 1044, 1050-51 (2d Cir. 1995). Because of these concerns, and for the reasons stated in the Ex Parte Letter, the government respectfully submits that disclosure of the Ex Parte Letter to the defendants is not warranted.¹

Respectfully submitted,

BRIDGET M. ROHDE
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By: /s/
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cc: Clerk of the Court (DLI) (by ECF)
Defense counsel (by ECF)

¹ The government also respectfully submits, for the reasons stated in the Ex Parte Letter, that public filing of the Ex Parte Letter is not warranted.